

Telephone:
504-342-7013

OPINION NUMBER 88-358

Mr. Francis P. Bickham
Caddo Parish Administrator
and Chief Executive Officer
CADDO PARISH COMMISSION
501 Texas Street
Shreveport, Louisiana 71101-5409

Dear Mr. Bickham:

In your letter of July 26, 1988, you requested an opinion of the Attorney General's Office as to whether the public meetings law is being violated when the Caddo Parish Administrator meets with a group of commissioners privately, where a quorum is not present and no vote is taken, to discuss matters of personnel character, litigation, or property purchase negotiation.

At the outset, it should be noted that a meeting of a public body constitutes a convening of a quorum of the membership of the body or committee or sub-committee thereof. Thus, unless there would be a "round robin" or "walking quorum" gathering, it would appear that there would be no violation of the Open Meetings Law for you to gather with members of the body where there was less than a quorum present. (See: R.S. 42:4.1(1); Brown v. East Baton Rouge Parish School Board, 405 So.2nd 1148)

Regarding the specific subjects which you have mentioned as possible topics for discussion, it appears that there are exemptions from the public meetings law to permit even a quorum of a body to conduct an executive session meeting for the purpose of discussing those topics. First, a public body must officially convene in a properly noticed open meeting and vote to go into executive session with approval of two-thirds of the members present. (R.S. 42:6)

It is permissible to enter an executive session to discuss the character, professional competence, or physical or mental health of a person, provided that the particular person

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to be discussed must be given notice of the public body's intent to discuss that person, who has the right to require that the discussions be held at an open meeting. There is no exemption which authorizes a public body to engage in an executive session to discuss "personnel".

It is legal for a body to meet in a properly convened executive session to discuss strategy or negotiations with respect to prospective litigation after written formal demand or after suit has been filed. In either instance, it must appear that discussion in an open meeting would have a detrimental effect on the litigative position of the public body.

There is no provision that exempts property purchase negotiation from the Open Meetings Law requirements. Consequently, a gathering at which a discussion of this subject by a quorum, or a walking quorum, takes place would be a violation of the Open Meetings Law.

Trusting that the foregoing has sufficiently answered your inquiry, I remain

Sincerely,

WILLIAM J. GUSTE, JR.
Attorney General

BY: _____
KENNETH C. DEJEAN
Chief Counsel

KCD:mac